

Open Enrollment Preferences and Guarantees: An Overview

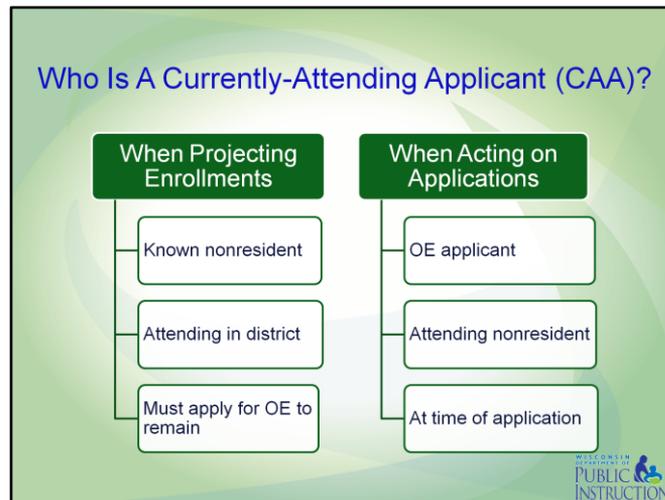


WISCONSIN
DEPARTMENT OF
PUBLIC
INSTRUCTION

The open enrollment statute provides that currently-attending applicants and siblings of currently-attending pupils must be granted preference for spaces that are available in the nonresident school district. The statute also permits, *though does not require*, nonresident school districts to guarantee approval to currently-attending applicants and siblings of currently attending pupils.

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Who Is A Currently-Attending Applicant (CAA)?



Any pupil who is attending the nonresident school district is a currently-attending pupil. However, some currently-attending pupils are no longer residents of the school district and must apply for open enrollment to continue to attend the district (mostly tuition waiver pupils). This presentation will refer to currently-attending pupils who must apply for open enrollment as “currently-attending applicants.”

School boards are required to designate their open enrollment spaces in January. To do so, they must project enrollments for the following school year. When projecting enrollments, a currently-attending applicant is any known nonresident pupil attending the district who must apply for open enrollment in the upcoming application period in order to remain in the district. Other pupils may later move out of the district and apply for open enrollment to remain. However, since this information is not available to the board in January, it cannot be used in the enrollment projections.

Once applications are submitted, a currently-attending application is any pupil (*whether or not that the pupil was included in the January projections*) who is attending the nonresident school district at the time of application.

Who Are Siblings?

Children who share at least one parent by birth, marriage or adoption.

Siblings are children who share at least one parent by birth, marriage or adoption.

The following slides contain some examples to help illustrate some situations involving siblings that may occur.

Sibling Example 1

Antoine & Jasmine	<ul style="list-style-type: none">•Antoine's parents are divorced.•Antoine's mother has another child, Jasmine, from her current marriage.•Antoine & Jasmine are siblings, because they have the same mother.
Justin	<ul style="list-style-type: none">•Justin is a foster child who lives with the family.•Justin is not a sibling to Antoine or Jasmine.



Antoine's parents are divorced. Antoine's mother also has a child, Jasmine, from her current marriage. Antoine and Jasmine are siblings, because they have the same mother.

Justin is a foster child who lives with the family. Justin is not a sibling to Antoine and Jasmine.

Sibling Example 2

Carmen & Jose

- Carmen lives with her mother and her mother's spouse.

- Her mother's spouse has a child, Jose.

- Carmen & Jose are siblings because their parents are married to each other.

Carmen lives with her mother and her mother's spouse. Her mother's spouse has a child, Jose.

Carmen and Jose are siblings because their parents are married to each other.

Sibling Example 3

Johnny & Mary Ann	<ul style="list-style-type: none">•Johnny and Mary Ann have the same parents.•Johnny lives with one parent.•Mary Ann lives with the other parent.•Johnny & Mary Ann are siblings because they have the same parents, even though they do not live in the same household.
Susie	<ul style="list-style-type: none">•Johnny & Mary Ann's father is married to a person who has a child, Susie.•Susie is a sibling to Johnny & Mary Ann because their parents are married to each other; even though they do not all live in the same household.

- Johnny and Mary Ann have the same mother and father.
- Johnny lives with one parent.
- Mary Ann lives with their other parent.
- Johnny & Mary Ann are siblings because they have the same parents, even though they do not live in the same household.
- Johnny & Mary Ann's father is married to a person who has a child, Susie.
- Susie is a sibling to Johnny & Mary Ann because their parents are married to each other; even though they do not all live in the same household.

Sibling Example 4

Jackie & Julie	<ul style="list-style-type: none">• Jackie & Julie have the same parents, who are deceased.• They live with their grandmother, who is their guardian.• They are siblings.
Stuart	<ul style="list-style-type: none">• Their grandmother has a son, Stuart• Stuart is not a sibling to Jackie & Julie.• However, if grandma adopts Jackie & Julie, then they and Stuart are siblings.



- Jackie & Julie have the same parents, who are deceased.
- They live with their grandmother, who is their guardian.
- They are siblings.
- Their grandmother has a son, Stuart
- Stuart is not a sibling to Jackie & Julie.
- However, if grandma adopts Jackie & Julie, then they and Stuart are siblings.



Statutory Requirement for Preference

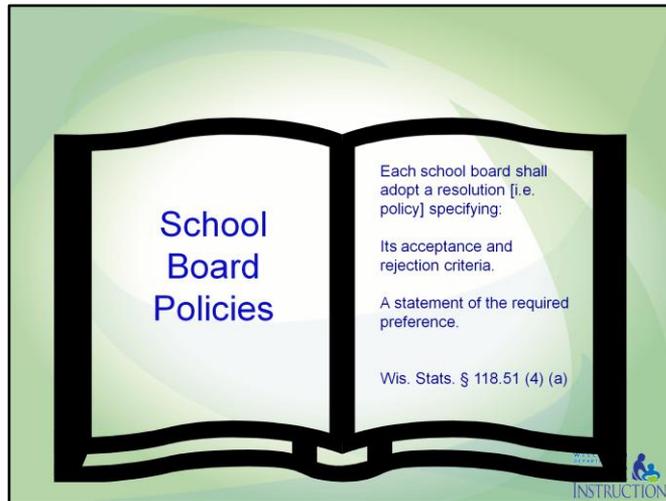
If a nonresident school board receives more applications ... than there are spaces available, the nonresident school board shall determine which pupils to accept ... on a random basis, after giving preference to pupils and siblings of pupils who are already attending the nonresident school district,

and, if the nonresident school district is a UHS district, to pupils who are attending an underlying elementary school district of the nonresident school district...

Wis. Stats. § 118.51 (3) (a) 2.

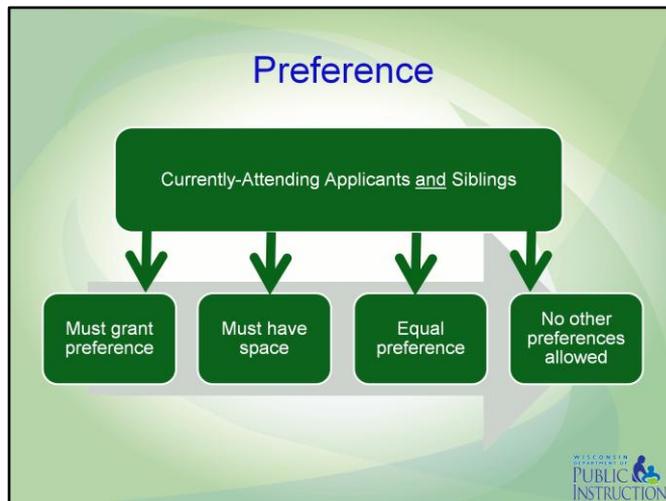


The open enrollment statute requires school boards to grant preference to currently-attending applicants and siblings of currently-attending pupils.



School boards are required to adopt policies specifying their acceptance and rejection criteria.

The policies must include a statement of the required preference.



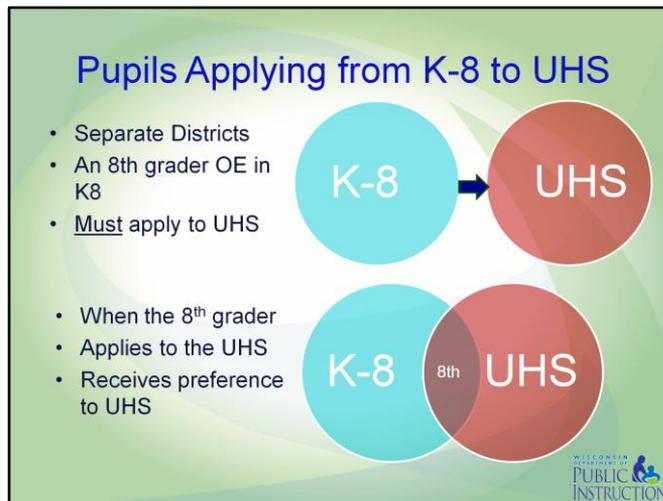
Preference requires a space.

Even currently-attending applicants are not guaranteed by statute for approval to remain in the seats they currently occupy.

If the board has not designated any spaces, then all preference pupils must be denied. If there are more preference pupils than there are spaces, there must be a random selection among the preference pupils.

Currently-attending applicants and siblings of currently-attending pupils are entitled to equal preference. That means, if there are not enough spaces to approve all pupils who are entitled to preference, there must be a random selection among the preference pupils. All preference pupils must go in the same random selection and it is possible that a sibling will be approved while a currently-attending applicant will be denied.

Finally, no other preferences are permitted. A common question is whether school boards can grant a preference (or guarantee) to children of staff members. The answer is "no." Only the two preferences specified in statute are permitted when approving and denying open enrollment applications.



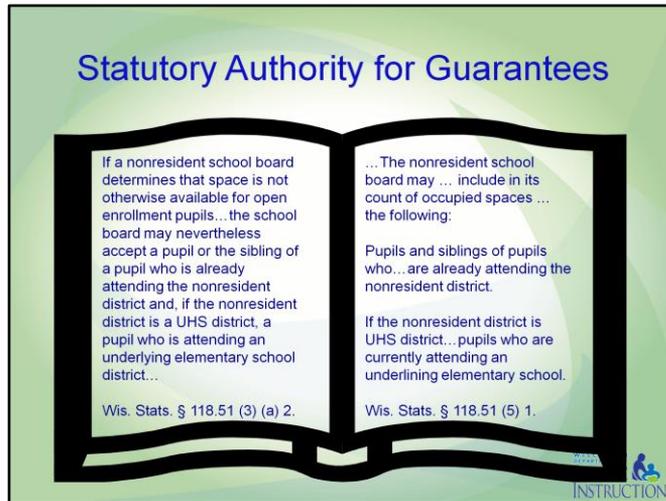
Most school districts are K-12 districts. A nonresident district may, *but does not have to*, require a pupil to reapply from 8th to 9th grade.

K-8 and UHS districts are *separate* districts. *Resident* pupils go directly from the K-8 feeder school to the union high school so, to residents, it seems like one district. But it is not.

8th graders who are open enrolled into a K-8 district must submit a completely new open enrollment application to attend the UHS that the K-8 feeds into. It is not a reapplication, because the K-8 and UHS districts are separate districts.

Nevertheless, when those 8th grade pupils apply to the UHS district associated with the K-8, those pupils are treated as if they were currently attending the UHS district and are entitled to preference.





School boards are *required* to grant preferences.

However, they are also *permitted* to guarantee approval to currently-attending applicants or siblings of currently-attending pupils.



As discussed previously, preference requires a space. Guarantees do not. That is, a board may guarantee approval even if the board has not designated enough spaces for that pupil.

The board may choose to guarantee approval to the same groups of pupils who are entitled to preference.

Unlike preferences, which must be granted *equally* to currently-attending applicants and siblings, a board may grant guarantees to currently-attending applicants or siblings of currently-attending applicants, or both.

If the board decides to guarantee approval, it must approve *all of the applicants* in the specified category. That is, if the policy guarantees approval to currently-attending applicants, it must guarantee approval to *all* currently-attending applicants, including pupils with disabilities. If the policy guarantees approval to siblings, it must guarantee approval to *all* siblings. We have seen instances where the board decided to guarantee approval only to siblings of certain pupils or only to siblings in certain grades. Those boards' decisions were overturned on appeal.

As with preferences, no other guarantees are permitted.



Deciding whether and how to grant guarantees can become quite complicated.

First, the board must decide who it wishes to grant guarantees to. The board must decide whether it wishes to guarantee approval to currently-attending applicants or siblings or both.



Next, the board must decide whether its policy will provide that the board “shall” grant the guarantee, or that the board “may” grant the guarantee. This is actually a significant distinction and decision.

Shall – If the policy states that the board “shall” (or will) guarantee approval to any applicants, it means exactly that. It shall do it. There is no annual decision and, unless the board changes its policy, it must grant whatever guarantees the policy provides.

May – If the policy states that the board “may” guarantee approval to any applicants, it means that the board has the discretion to do so, but it does not commit the board to doing so.

Each January, the board must designate the number of available spaces in the district. The board must also decide, at that meeting, whether it will guarantee approval to any applicants in the upcoming application period. The board’s decision at that time also affects how enrollment is projected which, in turn, affects how the number of available spaces is calculated.

If the board does not specify in January that currently-attending applicants or siblings will be guaranteed approval, then the board is only permitted to grant preferences to those pupils, *and only if there is space to do so*.



If the board's policy (and subsequent January action, if necessary) is to not provide for any applicants to be guaranteed approval, then the board may only grant the preferences required in statute. It is important for the board to understand what it has adopted in policy and how the policy affects its open enrollment decisions.

It is noted that preferences and guarantees apply to space, including special education space. However, for example, if a pupil is entitled to a preference or guarantee, but that pupil has been expelled, the pupil's application may be denied based on expulsion. Or, if the pupil is entitled to a preference or guarantee, but the special education that the pupil needs is not available in the district, the application may be denied.

Knowledge Check – True or False

1. A school board must grant preference to currently-attending applicants and siblings of currently-attending pupils.
2. A school board is permitted to grant preference to children of staff members.
3. A foster child living with a family is entitled to sibling preference.
4. If a school board's policy states that currently-attending applicants shall be guaranteed approval, the board must approve their applications.



Answers:

1. True.
2. False. The statute requires preference to be granted to currently-attending applicants and siblings of currently-attending pupils. The statute does not require or permit any other preferences.
3. False. A foster child is not a sibling.
4. True. The board must follow its policy. If the policy guarantees approval to currently-attending applicants, the board must approve their applications.